

Honorable Lauren J. King

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MONET CARTER-MIXON, as Personal
Representative of the Estate of MANUEL
ELLIS, and MARCIA CARTER,

Plaintiffs,

vs.

CITY OF TACOMA, CHRISTOPHER
BURBANK, MATTHEW COLLINS, MASYIH
FORD, TIMOTHY RANKINE, ARMANDO
FARINAS, RON KOMAROVSKY, PIERCE
COUNTY, GARY SANDERS, and ANTHONY
MESSINEO,

Defendants.

NO. 21-CV-05692 BHS

ANSWER AND AFFIRMATIVE
DEFENSES OF DEFENDANT
BURBANK TO PLAINTIFFS'
FIRST AMENDED COMPLAINT

COMES NOW Defendant Christopher Burbank, by and through his
attorneys, Wayne C. Fricke and Brett A. Purtzer of the Hester Law Group, Inc.,
P.S., and answer Plaintiffs' first amended complaint as follows:

1. NATURE OF ACTION

1.1 Answering paragraph 1.1, Defendant Burbank admits that the
Plaintiffs have stated the identity of the parties, the nature of the action, and the
claims asserted in their Amended Complaint. Except as admitted, denied.

1 2.5 Answering paragraph 2.4, Defendant Burbank admits that at all
2 relevant times, Timothy Rankine was employed as a law enforcement officer by
3 the City of Tacoma. Except as admitted, denied for lack of information.

4 2.6 Answering paragraph 2.4, Defendant Burbank admits that at all
5 relevant times, Masyih Ford was employed as a law enforcement officer by the
6 City of Tacoma. Except as admitted, denied for lack of information.

7 2.7 Answering paragraph 2.4, Defendant Burbank admits that at all
8 relevant times, Armando Farinas was employed as a law enforcement officer by
9 the City of Tacoma. Except as admitted, denied for lack of information.

10 2.8 Answering paragraph 2.4, Defendant Burbank admits that at all
11 relevant times, Ron Komarovsky was employed as a law enforcement officer by
12 the City of Tacoma. Except as admitted, denied for lack of information.

13 2.9 Answering paragraph 2.9, Defendant Burbank admits that
14 Defendant City of Tacoma is a municipal corporation in the Western District of
15 Washington and that at all relevant times, the named officers were employees of
16 the City of Tacoma. Except as admitted, denied.

17 2.10 The allegations in paragraph 2.10 are directed at another
18 defendant. No answer is required from Defendant Burbank. To the extent any
19 answer is required, denied for lack of knowledge.

20 2.11 The allegations in paragraph 2.10 are directed at another
21 defendant. No answer is required from Defendant Burbank. To the extent any
22 answer is required, denied for lack of knowledge.
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1 2.12 The allegations in paragraph 2.10 are directed at another
2 defendant. No answer is required from Defendant Burbank. To the extent any
3 answer is required, denied for lack of knowledge.

4 **III. JURISDICTION AND VENUE**

5 3.1 Answering paragraph 3.1, Defendant Burbank admits that this
6 Court has jurisdiction over the federal claims asserted in Plaintiff's Amended
7 Complaint.

8 3.2 Answering paragraph 3.2, Defendant Burbank admits that this
9 Court has supplemental jurisdiction over Plaintiff's state law claims.

10 3.3 Answering paragraph 3.3, Defendant Burbank admits that venue is
11 proper.

12 **IV. FACTS**

13 4.1 Answering paragraph 4.1, Defendant Burbank denies all allegations
14 for lack of knowledge.

15 4.2 Answering paragraph 4.2, Defendant Burbank denies all allegations
16 for lack of knowledge.

17 4.3 Answering paragraph 4.3, Defendant Burbank denies all
18 allegations.

19 4.4 Answering paragraph 4.4, Defendant Burbank denies all
20 allegations.

21 4.5 Answering paragraph 4.5, Defendant Burbank denies all
22 allegations.
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1 4.6 Answering paragraph 4.6, Defendant Burbank admits that he and
2 Officer Collins exited their patrol vehicle at some point during their interaction
3 with Mr. Ellis and admit that there is partial video of this incident. Except as
4 admitted, denied.

5 4.7 Answering paragraph 4.7, Defendant Burbank admits that Mr. Ellis
6 was unarmed.

7 4.8 Answering paragraph 4.8, Defendant Burbank admits that Officer
8 Collins was wearing a Tacoma Police Department uniform including a
9 bulletproof vest. Except as admitted, denied for lack of information.

10 4.9 Answering paragraph 4.9, Defendant Burbank admits that he has
11 training in defensive tactics and was wearing a Tacoma Police Department
12 uniform including a bulletproof vest. Except as admitted, denied for lack of
13 information.

14 4.10 Answering paragraph 4.10, Defendant Burbank denies all
15 allegations.

16 4.11 Answering paragraph 4.11, Defendant Burbank denies all
17 allegations.

18 4.12 Answering paragraph 4.12, Defendant Burbank denies all
19 allegations.

20 4.13 Answering paragraph 4.13, Defendant Burbank denies all
21 allegations.

22 4.14 Answering paragraph 4.14, Defendant Burbank denies all
23 allegations.
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1 4.15 Answering paragraph 4.15, Defendant Burbank denies all
2 allegations.

3 4.16 Answering paragraph 4.16, Defendant Burbank denies all
4 allegations.

5 4.17 Answering paragraph 4.17, Defendant Burbank admits that Officers
6 Rankine and Ford responded to the scene. Except as admitted, denied.

7 4.18 Answering paragraph 4.18, Defendant Burbank denies all
8 allegations for lack of information.

9 4.19 Answering paragraph 4.19, Defendant Burbank admits that Officer
10 Rankin assisted in restraining Manuel Ellis. Except as admitted, denied.

11 4.20 Answering paragraph 4.20, Defendant Burbank admits that Mr. Ellis
12 was restrained in handcuffs. Except as admitted, denied.

13 4.21 Answering paragraph 4.21, Defendant Burbank denies all
14 allegations.

15 4.22 Answering paragraph 4.22, Defendant Burbank denies all
16 allegations.

17 4.23 Answering paragraph 4.23, Defendant Burbank admits that a
18 hobble restraint was applied while restraining Manuel Ellis. Except as admitted,
19 denied.

20 4.24 Answering paragraph 4.24, Defendant Burbank denies all
21 allegations.

22 4.25 Answering paragraph 4.25, Defendant Burbank admits that multiple
23 officers were required to restrain Manuel Ellis. Except as admitted, denied.
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1 4.26 Answering paragraph 4.26, Defendant Burbank denies all
2 allegations.

3 4.27 Answering paragraph 4.27, Defendant Burbank admits that multiple
4 officers were required to restrain Manuel Ellis. Except as admitted, denied.

5 4.28 Answering paragraph 4.28, Defendant Burbank denies.

6 4.29 Answering paragraph 4.29, Defendant Burbank denies all
7 allegations.

8 4.30 Answering paragraph 4.30, Defendant Burbank denies all
9 allegations.

10 4.31 Answering paragraph 4.31, Defendant Burbank admits that Officer
11 Komarovsky responded to the incident scene. Except as admitted, denied.

12 4.32 Answering paragraph 4.32, Defendant Burbank admits that Officer
13 Farinas responded to the incident scene. Except as admitted, denied.

14 4.33 Answering paragraph 4.33, Defendant Burbank admits that Manuel
15 Ellis was restrained during the incident. Except as admitted, denied.

16 4.34 Answering paragraph 4.34, Defendant Burbank denies all
17 allegations for lack of knowledge.

18 4.35 Answering paragraph 4.35, Defendant Burbank admits that a spit
19 sock was applied to Manuel Ellis. Except as admitted, denied.

20 4.36 Answering paragraph 4.36, Defendant Burbank denies all
21 allegations.

22 4.37 Answering paragraph 4.37, Defendant Burbank denies all
23 allegations.
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1 4.38 Answering paragraph 4.38, Defendant Burbank denies all
2 allegations.

3 4.39 Answering paragraph 4.39, Defendant Burbank denies all
4 allegations.

5 4.40 Answering paragraph 4.40, Defendant Burbank denies all
6 allegations.

7 4.41 Answering paragraph 4.41, Defendant Burbank denies all
8 allegations.

9 4.42 Answering paragraph 4.42, Defendant Burbank denies all
10 allegations.

11 4.43 Answering paragraph 4.43, Defendant Burbank denies all
12 allegations.

13 4.44 Answering paragraph 4.44, Defendant Burbank denies all
14 allegations.

15 4.45 Answering paragraph 4.45, Defendant Burbank denies all
16 allegations.

17 4.46 The allegations in paragraph 4.46 are directed at another
18 defendant. No answer is required by Defendant Burbank. To the extent any
19 answer is required, denied.
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21 4.47 The allegations in paragraph 4.47 are directed at another
22 defendant. No answer is required by Defendant Burbank. To the extent any
23 answer is required, denied.
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1 4.48 The allegations in paragraph 4.48 are directed at another
2 defendant. No answer is required by Defendant Burbank. To the extent any
3 answer is required, denied.

4 4.49 The allegations in paragraph 4.49 are directed at another
5 defendant. No answer is required by Defendant Burbank. To the extent any
6 answer is required, denied.

7 4.50 Answering paragraph 4.50, Defendant Burbank admits that the
8 officers called for medical assistance for Manuel Ellis. Except as admitted,
9 denied.

10 4.51 Answering paragraph 4.51, Defendant Burbank denies all
11 allegations.

12 4.52 Answering paragraph 4.52, Defendant Burbank denies all
13 allegations.

14 4.53 Answering paragraph 4.53, Defendant Burbank admits that the
15 Tacoma Fire Department responded to the incident scene. Except as admitted,
16 denied.

17 4.54 Answering paragraph 4.54, Defendant Burbank denies all
18 allegations.

19 4.55 Answering paragraph 4.55, Defendant Burbank denies all
20 allegations.

21 4.56 Answering paragraph 4.56, Defendant Burbank admits that
22 emergency personnel attempted to provide aid to Manuel Ellis. Except as
23 admitted, denied.
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1 4.57 Answering paragraph 4.57, Defendant Burbank denies all
2 allegations for lack of information.

3 4.58 Answering paragraph 4.58, Defendant Burbank denies all
4 allegations for lack of information.

5 4.59 Answering paragraph 4.59, Defendant Burbank denies all
6 allegations for lack of information.

7 4.60 Answering paragraph 4.60, Defendant Burbank admits that Officer
8 Farinas acted as Critical Incident Liaison Officer to him. Except as admitted,
9 denied.

10 4.61 Answering paragraph 4.61, Defendant Burbank denies all
11 allegations.

12 4.62 The allegations in paragraph 4.62 are directed at another
13 defendant. No answer is required by Defendant Burbank. To the extent any
14 answer is required, denied for lack of information.

15 4.63 The allegations in paragraph 4.63 are directed at another
16 defendant. No answer is required by Defendant Burbank. To the extent any
17 answer is required, denied for lack of information.

18 4.64 The allegations in paragraph 4.64 are directed at another
19 defendant. No answer is required by Defendant Burbank. To the extent any
20 answer is required, denied for lack of information.

21 4.65 Paragraph 4.65 states a legal conclusion to which no answer is
22 required. To the extent any answer is required, denied.
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1 4.66 The allegations in paragraph 4.66 are directed at another defendant.
2 No answer is required by Defendant Burbank. To the extent any answer is
3 required, denied for lack of information.

4 4.67 The allegations in paragraph 4.67 are directed at another
5 defendant. No answer is required by Defendant Burbank. To the extent any
6 answer is required, denied for lack of information.

7 4.68 The allegations in paragraph 4.68 are directed at another
8 defendant. No answer is required by Defendant Burbank. To the extent any
9 answer is required, denied for lack of information.

10 4.69 The allegations in paragraph 4.69 are directed at another
11 defendant. No answer is required by Defendant Burbank. To the extent any
12 answer is required, denied for lack of information.

13 4.70 The allegations in paragraph 4.70 are directed at another
14 defendant. No answer is required by Defendant Burbank. To the extent any
15 answer is required, Defendant Burbank denies that Manuel Ellis was “choked”
16 and denies all other allegations for lack of information.

17 4.71 The allegations in paragraph 4.71 are directed at another
18 defendant. No answer is required by Defendant Burbank. To the extent any
19 answer is required, denied.

20 4.72 Paragraph 4.72 states a legal conclusion to which no answer is
21 required and is directed at another defendant. No answer is required from
22 Defendant Burbank to the extent any answer is required, denied.
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1 4.73 Paragraph 4.73 states a legal conclusion to which no answer is
2 required and is directed at another defendant. No answer is required from
3 Defendant Burbank. To the extent any answer is required, denied.

4 4.74 Paragraph 4.74 states a legal conclusion to which no answer is
5 required and is directed at another defendant. No answer is required from
6 Defendant Burbank. To the extent any answer is required, denied.

7 4.75 The allegations in paragraph 4.75 are directed at another
8 defendant. No answer is required by Defendant Burbank. To the extent any
9 answer is required, denied for lack of information.

10 4.76 The allegations in paragraph 4.76 are directed at another
11 defendant. No answer is required by Defendant Burbank. To the extent any
12 answer is required, denied for lack of information.

13 4.77 The allegations in paragraph 4.77 are directed at another
14 defendant. No answer is required by Defendant Burbank. To the extent any
15 answer is required, denied for lack of information.

16 4.78 The allegations in paragraph 4.78 are directed at another
17 defendant. No answer is required by Defendant Burbank. To the extent any
18 answer is required, denied for lack of information.

19 4.79 Answering paragraph 4.79, Defendant Burbank admits that he
20 declined to answer questions without counsel present on March 4, 2020. Except
21 as admitted, denied.
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1 4.80 The allegations in paragraph 4.80 are directed at another
2 defendant. No answer is required by Defendant Burbank. To the extent any
3 answer is required, denied for lack of information.

4 4.81 The allegations in paragraph 4.81 are directed at another
5 defendant. No answer is required by Defendant Burbank. To the extent any
6 answer is required, denied for lack of information.

7 4.82 Paragraph 4.82 states a legal conclusion to which no answer is
8 required and is directed at another defendant. No answer is required from
9 Defendant Burbank. To the extent any answer is required, denied.

10 4.83 The allegations in paragraph 4.83 are directed at another
11 defendant. No answer is required by Defendant Burbank. To the extent any
12 answer is required, denied for lack of information.

13 4.84 Answering paragraph 4.84, Defendant Burbank admits that he was
14 placed on administrative leave. Except as admitted, denied.

15 4.85 Answering paragraph 4.85, Defendant Burbank admits he returned
16 to work after being placed on administrative leave, but denies all further
17 allegations.

18 4.86 The allegations in paragraph 4.86 are directed at another
19 defendant. No answer is required by Defendant Burbank. To the extent any
20 answer is required, denied for lack of information.

21 4.87 The allegations in paragraph 4.87 are directed at another
22 defendant. No answer is required by Defendant Burbank. To the extent any
23 answer is required, denied for lack of information.
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1 4.88 Answering paragraph 4.88, Defendant Burbank denies all
2 allegations for lack of information.

3 4.89 Answering paragraph 4.89, Defendant Burbank admits that Victoria
4 Woodards was at all relevant times mayor of the City of Tacoma. Except as
5 admitted, denies for lack of information.

6 4.90 Answering paragraph 4.90, Defendant Burbank denies for lack of
7 information.

8 4.91 The allegations in paragraph 4.91 are directed at another
9 defendant. No answer is required by Defendant Burbank. To the extent any
10 answer is required, denied for lack of information.

11 4.92 Answering paragraph 4.92, Defendant Burbank denies all
12 allegations for lack of information.

13 4.93 The allegations in paragraph 4.93 are directed at another
14 defendant. No answer is required by Defendant Burbank. To the extent any
15 answer is required, denied for lack of information.

16 4.94 Answering paragraph 4.94, Defendant Burbank admits that the
17 Washington State Patrol was involved in investigating this incident. Except as
18 admitted, denies for lack of information.

19 4.95 Answering paragraph 4.95, Defendant Burbank denies for lack of
20 information.

21 4.96 Answering paragraph 4.96, Defendant Burbank admits that he
22 declined to be interviewed by Washington State Patrol. Except as admitted, the
23 allegations are denied.
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1 4.97 Answering paragraph 4.97, Defendant Burbank denies for lack of
2 information.

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4 4.98 Answering paragraph 4.98, Defendant Burbank denies for lack of
5 information.

6 4.99 Answering paragraph 4.99, Defendant Burbank denies for lack of
7 information.

8 4.100 Answering paragraph 4.100, Defendant Burbank denies all
9 allegations for lack of information.

10 4.101 Answering paragraph 4.101, Defendant Burbank denies all
11 allegations for lack of information.

12 4.102 Answering paragraph 4.102, Defendant Burbank admits that the
13 Washington State Attorney General announced its charging decision in May
14 2021. Except as admitted, denied for lack of information.

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16 4.103 Answering paragraph 4.103, Defendant Burbank admits that this
17 paragraph contains an excerpt from the Declaration of Probable Cause filed by
18 the Attorney General. Except as admitted, denied.

19 4.104 Answering paragraph 4.104, Defendant Burbank admits that he and
20 the named officers have entered pleas of not guilty.

21 4.105 Paragraph 4.105 states a legal conclusion to which no answer is
22 required. To the extent any answer is required, denied.

23 4.106 Answering paragraph 4.106, Defendant Burbank admits that he has
24 been paid while on paid administrative leave. Except as admitted, denied.
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1 4.107 Answering paragraph 4.107, Defendant Burbank denies all
2 allegations.

3 4.108 Answering paragraph 4.108, Defendant Burbank denies all
4 allegations.

5 4.109 Answering paragraph 4.109, Defendant Burbank denies all
6 allegations.

7 4.110 Answering paragraph 4.110, Defendant Burbank denies all
8 allegations.

9 4.111 Answering paragraph 4.111, Defendant Burbank denies all
10 allegations.

11 4.112 Answering paragraph 4.112, Defendant Burbank denies all
12 allegations.

13 4.113 Answering paragraph 4.113, Defendant Burbank denies all
14 allegations.

15 4.114 The allegations in paragraph 4.93 are directed at another
16 defendant. No answer is required by Defendant Burbank. To the extent any
17 answer is required, denied for lack of information.

18 4.115 Answering paragraph 4.115, Defendant Burbank denies all
19 allegations.

20 4.116 Answering paragraph 4.116, Defendant Burbank denies all
21 allegations.

22 4.117 Answering paragraph 4.117, Defendant Burbank denies all
23 allegations.
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1 4.118 Answering paragraph 4.118, Defendant Burbank denies all
2 allegations.

3 4.119 The allegations contained in paragraph 4.119 are directed to
4 another defendant. No answer is required from Defendant Burbank. To the extent
5 any answer is required, denied for lack of information.

6 4.120 The allegations contained in paragraph 4.120 are directed to
7 another defendant. No answer is required from Defendant Burbank. To the extent
8 any answer is required, denied for lack of information.

9 4.121 The allegations contained in paragraph 4.121 are directed to
10 another defendant. No answer is required from Defendant Burbank. To the extent
11 any answer is required, denied for lack of information.

12 4.122 The allegations contained in paragraph 4.122 are directed to
13 another defendant. No answer is required from Defendant Burbank. To the extent
14 any answer is required, denied for lack of information.

15 4.123 The allegations contained in paragraph 4.123 are directed to
16 another defendant. No answer is required from Defendant Burbank. To the extent
17 any answer is required, denied for lack of information.

18 4.124 Answering paragraph 4.124, Defendant Burbank denies all
19 allegations.

20 4.125 The allegations contained in paragraph 4.125 are directed to
21 another defendant. No answer is required from Defendant Burbank. To the extent
22 any answer is required, denied for lack of information.
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1 4.126 Answering paragraph 4.126, Defendant Burbank denies all
2 allegations for lack of information.

3 **V. CAUSES OF ACTION**

4 5.1 Answering paragraph 5.1, Defendant Burbank denies all
5 allegations.

6 5.2 Answering paragraph 5.2, Defendant Burbank denies all
7 allegations.

8 5.3 The allegations in paragraph 5.8 are directed to another defendant.
9 No answer is required from Defendant Burbank. To the extent any answer is
10 required, denied.

11 5.4 The allegations in paragraph 5.8 are directed to another defendant.
12 No answer is required from Defendant Burbank. To the extent any answer is
13 required, denied.

14 5.5 The allegations in paragraph 5.8 are directed to another defendant.
15 No answer is required from Defendant Burbank. To the extent any answer is
16 required, denied.

17 5.6 Answering paragraph 5.6, Defendant Burbank denies all allegations
18 for lack of information.

19 5.7 The allegations in paragraph 5.8 are directed to another defendant.
20 No answer is required from Defendant Burbank. To the extent any answer is
21 required, denied.
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1 5.8 The allegations in paragraph 5.8 are directed to another defendant.
2 No answer is required from Defendant Burbank. To the extent any answer is
3 required, denied.

4 5.9 The allegations in paragraph 5.9 are directed to another defendant. No
5 answer is required from Defendant Burbank. To the extent any answer is
6 required, denied.

7 5.10 The allegations in paragraph 5.10 are directed to another
8 defendant. No answer is required from Defendant Burbank. To the extent any
9 answer is required, denied.

10 5.11 The allegations in paragraph 5.11 are directed to another
11 defendant. No answer is required from Defendant Burbank. To the extent any
12 answer is required, denied.

13 5.12 The allegations in paragraph 5.12 are directed to another
14 defendant. No answer is required from Defendant Burbank. To the extent any
15 answer is required, denied.

16 5.13 Answering paragraph 5.13, Defendant Burbank denies all
17 allegations.

18 5.14 Answering paragraph 5.14, Defendant Burbank denies all
19 allegations.

20 5.15 Answering paragraph 5.15, Defendant Burbank denies all
21 allegations.

22 5.16 Answering paragraph 5.16, Defendant Burbank denies all allegations.
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1 5.17 Answering paragraph 5.17, Defendant Burbank denies for lack of
2 knowledge. Answering the allegations contained in footnote 6, placed at the end
3 of this paragraph, Defendant Burbank denies for lack of knowledge.

4 5.18 Paragraph 5.18 states a legal conclusion to which no answer is
5 required. To the extent any answer is required, denied.

6 5.19 The allegations in paragraph 5.19 are directed to another
7 defendant. No answer is required from Defendant Burbank. To the extent any
8 answer is required, denied.

9 5.20 Paragraph 5.20 states a legal conclusion to which no answer is
10 required and is directed at another defendant. No answer is required from
11 Defendant Burbank. To the extent any answer is required, denied.

12 5.21 Answering paragraph 5.21, Defendant Burbank denies all
13 allegations.

14 5.22 Answering paragraph 5.22, Defendant Burbank denies all
15 allegations.

16 5.23 Answering paragraph 5.23, Defendant Burbank denies all
17 allegations for lack of information.

18 5.24 Answering paragraph 5.24, Defendant Burbank denies all
19 allegations.

20 5.25 Answering paragraph 5.25, Defendant Burbank denies all
21 allegations.

22 5.26 Answering paragraph 5.26, Defendant Burbank denies all allegations.
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VI. DAMAGES ALLEGED

6.1 Answering paragraph 6.1, Defendant Burbank denies all allegations.

6.2 Answering paragraph 6.2, Defendant Burbank denies all allegations for lack of information.

6.3 Answering paragraph 6.3, Defendant Burbank denies all allegations.

6.4 Answering paragraph 6.4, Defendant Burbank denies all allegations.

6.5 Answering paragraph 6.5, Defendant Burbank denies all allegations.

6.6 Answering paragraph 6.6, Defendant Burbank denies all allegations.

6.7 Answering paragraph 6.7, Defendant Burbank denies all allegations.

6.8 Answering paragraph 6.8, Defendant Burbank denies all allegations.

Additionally, paragraphs 6.1 through 6.8 constitute Plaintiffs' prayer for relief. Defendant Burbank denies that Plaintiffs are entitled to any of the relief requested therein.

AFFIRMATIVE DEFENSES

FURTHER, AND BY WAY OF AFFIRMATIVE AND OTHER DEFENSES, Defendant Burbank alleges as follows:

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FIRST AFFIRMATIVE DEFENSE

Plaintiffs have failed to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant Burbank is entitled to qualified immunity under both federal and state law.

THIRD AFFIRMATIVE DEFENSE

All actions by Defendant Burbank were performed in good faith, were reasonable, were based on probable cause and/or reasonable suspicion and were within his lawful authority.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' damages are proximately caused entirely by the conduct of Manuel Ellis, who initiated a violent confrontation with the officers and died from a self-administered lethal dose of methamphetamine.

FIFTH AFFIRMATIVE DEFENSE

All of Plaintiffs' state law claims are barred under RCW 5.40.060(1).

SIXTH AFFIRMATIVE DEFENSE

All of Plaintiff's state law claims are barred under RCW 4.24.420.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Plaintiffs' complaint and having asserted affirmative defenses, Defendant Burbank prays for the following relief:

1. That Plaintiffs' prayer for relief be denied in its entirety;
2. That Plaintiff's claims be dismissed with prejudice and without costs;

1 3. For Defendant Burbank's costs, disbursements and attorney fees to
2 the fullest extent allowed by law; and

3 4. For such other and further relief as the court deems appropriate.

4 DATED THIS 1st day of February, 2022.

5 HESTER LAW GROUP, INC., P.S.
6 Attorneys for Defendant Burbank

7
8 By: 

9 Wayne C. Fricke
10 WSB#16550

11
12 By: 

13 Brett A. Purtzer
14 WSB#17283

CERTIFICATE OF SERVICE

Kathy Herbstler, hereby certifies under penalty of perjury under the laws of the State of Washington, that on the day set forth below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record for the plaintiffs and co-defendants and hereby certify that I have mailed the document by email to defendant Burbank.

Signed at Tacoma, Washington this 1st day of February, 2022.



Kathy Herbstler

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